

Amendment and Response

Serial No.: 10/729,114

Confirmation No.: 3162

Filed: 5 December 2003

For: WOUND DRESSINGS AND METHODS

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Remarks

The Office Action mailed January 9, 2008 has been received and reviewed.

Claims 1, 16, 19, and 20 having been amended, claims 24 and 25 having been added, the pending claims are claims 1-25. Reconsideration and withdrawal of the rejections are respectfully requested.

The amended and new claims are fully supported by the originally filed application, for example, at page 4, line 31 through page 5, line 4.

It is noted with appreciation that all originally filed claims have been considered.

Information Disclosure Statement

A Supplemental Information Disclosure Statement was submitted by Applicants on June 5, 2007. An initialed copy of the 1449 was received by the Applicants. However, one document was not initialed. For the Examiner's convenience, a copy of the 1449 form is attached as EXHIBIT A. Consideration of each of the documents listed on the attached 1449 form(s) is respectfully requested. Pursuant to the provisions of M.P.E.P. §609, Applicants further request that a copy of the 1449 form(s), marked as being considered and initialed by the Examiner, be returned with the next Official Communication.

Double Patenting Rejection

Claims 1-23 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-73 of co-pending Application No. 10/728,577. Upon an indication of otherwise allowable subject matter and in the event this rejection is maintained, Applicants will provide an appropriate response.

The 35 U.S.C. §112, Second Paragraph, Rejection

The Examiner rejected claim 16 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Examiner alleged that the expressions

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"compatibilizer," "extruding aid," and "chain transfer agent" do not set forth the metes and bounds of the claim. Claim 16 having been amended, this rejection is rendered moot.

Applicants submit, however, that this is not an admission that the rejection is proper. Applicants submit that these terms would be clearly understood by one of skill in the art, particularly when read in view of Applicants' disclosure and their use in the context of a wound dressing that includes an absorbent, nonadherent polymer composition. Although each term may encompass specific materials that have different properties, depending on the system in which they are used, they can be broadly defined by their general functions. For example, a compatibilizer is a material that improves the compatibility between materials; an extrusion aid assists in extruding materials; and a chain transfer agent regulates free radical polymerization.

The 35 U.S.C. §102 and §103 Rejections

The Examiner rejected claims 1-6, 13-18, and 21 under 35 U.S.C. §102 as being anticipated by WO 02/066087. The Examiner rejected claims 7 and 8 under 35 U.S.C. §103 as being unpatentable over WO 02/066087. The Examiner rejected claims 9-11, 19, and 22 under 35 U.S.C. §103 as being unpatentable over WO 02/066087 in view of "SALCARE[®] SC95" by Ciba[®]. The Examiner rejected claims 12, 20, and 23 under 35 U.S.C. §103 as being unpatentable over WO 02/066087 in view of Brook (U.S. Patent No. 4,902,565). These rejections are respectfully traversed.

As noted by the Examiner, WO 02/066087 is directed to an adhesive composition. In contrast, Applicants claims are directed to a nonadherent polymer composition. It is noted that in the previous response (filed on October 22, 2007), it was stated "Applicants wish to bring to the Examiner's attention that claim 1 recites a nonadherent composition defined in the Specification on p. 3, lines 27-32 as a composition that does not adhere [sic] to the wound tissue and so does not cause pain and/or destruction of the wound issue [sic] upon removal. The wound dressing disclosed in the instant application is primarily a wound contact material that does not stick to the wound." Applicants wish to clarify the record and point out that, as explained at page 3, line 27 through page 4, line 2 of Applicants' specification, the polymer

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composition itself is nonadherent to stainless steel per the test outlined, and preferably to wound tissue. Furthermore, although the composition is nonadherent *per se*, it could be used in combination with a pressure sensitive adhesive, for example, in an article (e.g., a wound dressing).

There is no teaching or suggestion in WO 02/066087 (or any motivation provided by any of the other documents cited by the Examiner) to make a nonadherent composition. Applicants have amended claims 1, 19, and 20 to clarify that the language "absorbent, nonadherent composition" is not merely a statement of intended use; rather, the components (polymer matrix, optional plasticizing agent, and microparticles) are selected to form an absorbent, nonadherent polymer composition.

In contrast, WO 02/066087 is drawn specifically to an adhesive composition. It is respectfully submitted that although a definition *per se* may not be provided in WP 02/066087, one of skill in the art would clearly understand that the compositions of WO 02/066087 are adhesives that "must provide sufficient adhesive strength to adhere the microcolloid containing composition of the invention to the skin of the user" (p. 17, paragraph 1). Furthermore, in the carryover paragraph from page 13 to page 14, WO 02/066087 discloses:

The adhesive matrix may comprise any suitable adhesive known *per se*, such as a pressure sensitive adhesive, which is defined by the Pressure Sensitive Tape Council (Glossary of Terms Used in Pressure Sensitive Tape Industry, PSTC, Glenview, IL, 1959) to be adhesives "which in dry form are aggressively and permanently tacky at room temperature and firmly adhere to a variety of dissimilar surfaces upon mere contact without the need of more than a finger or hand pressure." These adhesives "have a sufficiently cohesive holding and elastic nature so that, despite their aggressive tackiness, they can be handled with the fingers and removed from smooth surfaces without leaving a residue." Because pressure sensitive adhesives vary in their strength and adhesiveness, their selection of use in the composition will depend on the final application desired.

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And, in the third full paragraph of page 17, WO 02/066087 discloses:

Preferably, the pressure sensitive adhesives useful in the composition may be hydrophobic allowing the adhesives of the pressure sensitive adhesive to resist absorbing moisture or other body exudates gathering at the skin or skin opening during use. The composition retains its strong adhesiveness even in the presence of water or exudates since the pressure sensitive adhesive is unaffected and not plasticized by these agents. Excess moisture is taken away from the skin surface by the microcolloids having a high moisture vapour transmission rate. This decreases the risk of adhesion loss due to pooling of moisture on the skin-facing side of the adhesive.

Thus, although Applicants' invention may use hydrophilic microparticles for absorbency, the polymer matrix of Applicants' invention is not an adhesive. Applicants' polymer composition is nonadherent. This is not simply a statement of an intended use; rather, it is a defining feature. This defines a feature of the composition. This defining feature is very different from the composition of WO 02/066087. This defining feature provides guidance as to what components to select to provide a structural difference to the composition. Simply because the components of Applicants' invention and those of WO 02/066087 may overlap, does not mean that they cannot be combined in different ways to create entirely different resultant compositions – one that is an adhesive and one that is nonadherent.

Furthermore, WO 02/066087 does not disclose any teaching or suggestion of how to modify its composition to be nonadherent. Nothing in any of the other cited documents cures the deficiencies of WO 02/066087. Nor is there any motivation provided by any of the other documents cited by the Examiner to use the components of WO 02/066087 to make a nonadherent composition. Additionally, none of the combinations of cited documents provides one skilled in the art with a reasonable expectation of successfully forming an absorbent, nonadherent polymer composition. Thus, none of the cited combinations of documents teaches or suggests all of the features recited in Applicants' claims.

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Therefore, Applicants respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. §102(b) and 35 U.S.C. §103(a).

Summary

It is respectfully submitted that the pending claims 1-25 are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted
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Date

March 4, 2008

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CERTIFICATE UNDER 37 CFR §1.8:

The undersigned hereby certifies that the Transmittal Letter and the paper(s), as described hereinabove, are being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 4th day of March, 2008, at 0:40 am (Central Time).

By: Sara E. Wigant
Name: Sara E Wigant